

# House Calendar No. 211

107<sup>TH</sup> CONGRESS  
2D SESSION

## S. 2690

[Report No. 107-659]

### IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2002

Referred to the Committee on the Judiciary

SEPTEMBER 17, 2002

Reported with an amendment, referred to the House Calendar, and ordered  
to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 27, 2002]

## AN ACT

To reaffirm the reference to one Nation under God in the  
Pledge of Allegiance.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 *Congress finds the following:*

5 *(1) On November 11, 1620, prior to embarking*

6 *for the shores of America, the Pilgrims signed the*

7 *Mayflower Compact that declared: “Having under-*

1       *taken, for the Glory of God and the advancement of*  
 2       *the Christian Faith and honor of our King and coun-*  
 3       *try, a voyage to plant the first colony in the northern*  
 4       *parts of Virginia.”.*

5               (2) *On July 4, 1776, America’s Founding Fa-*  
 6       *thers, after appealing to the “Laws of Nature, and of*  
 7       *Nature’s God” to justify their separation from Great*  
 8       *Britain, then declared: “We hold these Truths to be*  
 9       *self-evident, that all Men are created equal, that they*  
 10       *are endowed by their Creator with certain*  
 11       *unalienable Rights, that among these are Life, Lib-*  
 12       *erty, and the Pursuit of Happiness”.*

13              (3) *In 1781, Thomas Jefferson, the author of the*  
 14       *Declaration of Independence and later the Nation’s*  
 15       *third President, in his work titled “Notes on the State*  
 16       *of Virginia” wrote: “God who gave us life gave us lib-*  
 17       *erty. And can the liberties of a nation be thought se-*  
 18       *cure when we have removed their only firm basis, a*  
 19       *conviction in the minds of the people that these lib-*  
 20       *erties are of the Gift of God. That they are not to be*  
 21       *violated but with His wrath? Indeed, I tremble for*  
 22       *my country when I reflect that God is just; that his*  
 23       *justice cannot sleep forever.”.*

24              (4) *On May 14, 1787, George Washington, as*  
 25       *President of the Constitutional Convention, rose to*

1        *admonish and exhort the delegates and declared: “If*  
 2        *to please the people we offer what we ourselves dis-*  
 3        *approve, how can we afterward defend our work? Let*  
 4        *us raise a standard to which the wise and the honest*  
 5        *can repair; the event is in the hand of God!”.*

6            *(5) On July 21, 1789, on the same day that it*  
 7        *approved the Establishment Clause concerning reli-*  
 8        *gion, the First Congress of the United States also*  
 9        *passed the Northwest Ordinance, providing for a ter-*  
 10       *ritorial government for lands northwest of the Ohio*  
 11       *River, which declared: “Religion, morality, and*  
 12       *knowledge, being necessary to good government and*  
 13       *the happiness of mankind, schools and the means of*  
 14       *education shall forever be encouraged.”.*

15           *(6) On September 25, 1789, the First Congress*  
 16       *unanimously approved a resolution calling on Presi-*  
 17       *dent George Washington to proclaim a National Day*  
 18       *of Thanksgiving for the people of the United States by*  
 19       *declaring, “a day of public thanksgiving and prayer,*  
 20       *to be observed by acknowledging, with grateful hearts,*  
 21       *the many signal favors of Almighty God, especially by*  
 22       *affording them an opportunity peaceably to establish*  
 23       *a constitution of government for their safety and hap-*  
 24       *piness.”.*

1           (7) *On November 19, 1863, President Abraham*  
 2       *Lincoln delivered his Gettysburg Address on the site*  
 3       *of the battle and declared: “It is rather for us to be*  
 4       *here dedicated to the great task remaining before us—*  
 5       *that from these honored dead we take increased devo-*  
 6       *tion to that cause for which they gave the last full*  
 7       *measure of devotion—that we here highly resolve that*  
 8       *these dead shall not have died in vain—that this Na-*  
 9       *tion, under God, shall have a new birth of freedom—*  
 10      *and that Government of the people, by the people, for*  
 11      *the people, shall not perish from the earth.”.*

12           (8) *On April 28, 1952, in the decision of the Su-*  
 13      *preme Court of the United States in Zorach v.*  
 14      *Clauson, 343 U.S. 306 (1952), in which school chil-*  
 15      *dren were allowed to be excused from public schools*  
 16      *for religious observances and education, Justice Wil-*  
 17      *liam O. Douglas, in writing for the Court stated:*  
 18      *“The First Amendment, however, does not say that in*  
 19      *every and all respects there shall be a separation of*  
 20      *Church and State. Rather, it studiously defines the*  
 21      *manner, the specific ways, in which there shall be no*  
 22      *concern or union or dependency one on the other.*  
 23      *That is the common sense of the matter. Otherwise*  
 24      *the State and religion would be aliens to each other—*  
 25      *hostile, suspicious, and even unfriendly. Churches*

1       *could not be required to pay even property taxes. Mu-*  
 2       *nicipalities would not be permitted to render police*  
 3       *or fire protection to religious groups. Policemen who*  
 4       *helped parishioners into their places of worship would*  
 5       *violate the Constitution. Prayers in our legislative*  
 6       *halls; the appeals to the Almighty in the messages of*  
 7       *the Chief Executive; the proclamations making*  
 8       *Thanksgiving Day a holiday; ‘so help me God’ in our*  
 9       *courtroom oaths—these and all other references to the*  
 10       *Almighty that run through our laws, our public rit-*  
 11       *uals, our ceremonies would be flouting the First*  
 12       *Amendment. A fastidious atheist or agnostic could*  
 13       *even object to the supplication with which the Court*  
 14       *opens each session: ‘God save the United States and*  
 15       *this Honorable Court.’”.*

16           (9) *On June 15, 1954, Congress passed and*  
 17       *President Eisenhower signed into law a statute that*  
 18       *was clearly consistent with the text and intent of the*  
 19       *Constitution of the United States, that amended the*  
 20       *Pledge of Allegiance to read: “I pledge allegiance to*  
 21       *the Flag of the United States of America and to the*  
 22       *Republic for which it stands, one Nation under God,*  
 23       *indivisible, with liberty and justice for all.”;*

24           (10) *On July 20, 1956, Congress proclaimed that*  
 25       *the national motto of the United States is “In God*

1     *We Trust*”, and that motto is inscribed above the  
 2     main door of the Senate, behind the Chair of the  
 3     Speaker of the House of Representatives, and on the  
 4     currency of the United States.

5           (11) On June 17, 1963, in the decision of the  
 6     Supreme Court of the United States in *Abington*  
 7     *School District v. Schempp*, 374 U.S. 203 (1963), in  
 8     which compulsory school prayer was held unconstitu-  
 9     tional, Justices Goldberg and Harlan, concurring in  
 10    the decision, stated: “But untutored devotion to the  
 11    concept of neutrality can lead to invocation or ap-  
 12    proval of results which partake not simply of that  
 13    noninterference and noninvolvement with the religious  
 14    which the Constitution commands, but of a brooding  
 15    and pervasive devotion to the secular and a passive,  
 16    or even active, hostility to the religious. Such results  
 17    are not only not compelled by the Constitution, but,  
 18    it seems to me, are prohibited by it. Neither govern-  
 19    ment nor this Court can or should ignore the signifi-  
 20    cance of the fact that a vast portion of our people be-  
 21    lieve in and worship God and that many of our legal,  
 22    political, and personal values derive historically from  
 23    religious teachings. Government must inevitably take  
 24    cognizance of the existence of religion and, indeed,

1        *under certain circumstances the First Amendment*  
 2        *may require that it do so.”.*

3            (12) *On March 5, 1984, in the decision of the*  
 4        *Supreme Court of the United States in Lynch v.*  
 5        *Donnelly, 465 U.S. 668 (1984), in which a city govern-*  
 6        *ment’s display of a nativity scene was held to be con-*  
 7        *stitutional, Chief Justice Burger, writing for the*  
 8        *Court, stated: “There is an unbroken history of offi-*  
 9        *cial acknowledgment by all three branches of govern-*  
 10       *ment of the role of religion in American life from at*  
 11       *least 1789 . . . [E]xamples of reference to our reli-*  
 12       *gious heritage are found in the statutorily prescribed*  
 13       *national motto ‘In God We Trust’ (36 U.S.C. 186),*  
 14       *which Congress and the President mandated for our*  
 15       *currency, see (31 U.S.C. 5112(d)(1) (1982 ed.)), and*  
 16       *in the language ‘One Nation under God’, as part of*  
 17       *the Pledge of Allegiance to the American flag. That*  
 18       *pledge is recited by many thousands of public school*  
 19       *children—and adults—every year . . . Art galleries*  
 20       *supported by public revenues display religious paint-*  
 21       *ings of the 15th and 16th centuries, predominantly*  
 22       *inspired by one religious faith. The National Gallery*  
 23       *in Washington, maintained with Government sup-*  
 24       *port, for example, has long exhibited masterpieces*  
 25       *with religious messages, notably the Last Supper, and*

1     *paintings depicting the Birth of Christ, the Cru-*  
 2     *cifixion, and the Resurrection, among many others*  
 3     *with explicit Christian themes and messages. The very*  
 4     *chamber in which oral arguments on this case were*  
 5     *heard is decorated with a notable and permanent—*  
 6     *not seasonal—symbol of religion: Moses with the Ten*  
 7     *Commandments. Congress has long provided chapels*  
 8     *in the Capitol for religious worship and meditation.”.*

9           (13) *On June 4, 1985, in the decision of the Su-*  
 10     *preme Court of the United States in Wallace v.*  
 11     *Jaffree, 472 U.S. 38 (1985), in which a mandatory*  
 12     *moment of silence to be used for meditation or vol-*  
 13     *untary prayer was held unconstitutional, Justice*  
 14     *O’Connor, concurring in the judgment and addressing*  
 15     *the contention that the Court’s holding would render*  
 16     *the Pledge of Allegiance unconstitutional because Con-*  
 17     *gress amended it in 1954 to add the words “under*  
 18     *God,” stated “In my view, the words ‘under God’ in*  
 19     *the Pledge, as codified at (36 U.S.C. 172), serve as an*  
 20     *acknowledgment of religion with ‘the legitimate sec-*  
 21     *ular purposes of solemnizing public occasions, [and]*  
 22     *expressing confidence in the future.’”.*

23           (14) *On November 20, 1992, the United States*  
 24     *Court of Appeals for the 7th Circuit, in Sherman v.*  
 25     *Community Consolidated School District 21, 980*

1 *F.2d 437 (7th Cir. 1992), held that a school district's*  
 2 *policy for voluntary recitation of the Pledge of Alle-*  
 3 *giance including the words "under God" was con-*  
 4 *stitutional.*

5 (15) *The 9th Circuit Court of Appeals erro-*  
 6 *neously held, in Newdow v. U.S. Congress, (9th Cir.*  
 7 *June 26, 2002) that the Pledge of Allegiance's use of*  
 8 *the express religious reference "under God" violates*  
 9 *the First Amendment to the Constitution, and that,*  
 10 *therefore, a school district's policy and practice of*  
 11 *teacher-led voluntary recitations of the Pledge of Alle-*  
 12 *giance is unconstitutional.*

13 (16) *The erroneous rationale of the 9th Circuit*  
 14 *Court of Appeals in Newdow would lead to the absurd*  
 15 *result that the Constitution's use of the express reli-*  
 16 *gious reference "Year of our Lord" in Article VII vio-*  
 17 *lates the First Amendment to the Constitution, and*  
 18 *that, therefore, a school district's policy and practice*  
 19 *of teacher-led voluntary recitations of the Constitution*  
 20 *itself would be unconstitutional.*

21 **SEC. 2. ONE NATION UNDER GOD.**

22 (a) *REAFFIRMATION.*—Section 4 of title 4, *United*  
 23 *States Code, is amended to read as follows:*

1   **“§ 4. Pledge of allegiance to the flag; manner of deliv-**  
 2                                   **ery**

3           *“The Pledge of Allegiance to the Flag: ‘I pledge alle-*  
 4 *giance to the Flag of the United States of America, and*  
 5 *to the Republic for which it stands, one Nation under God,*  
 6 *indivisible, with liberty and justice for all.’, should be ren-*  
 7 *dered by standing at attention facing the flag with the right*  
 8 *hand over the heart. When not in uniform men should re-*  
 9 *move any non-religious headdress with their right hand and*  
 10 *hold it at the left shoulder, the hand being over the heart.*  
 11 *Persons in uniform should remain silent, face the flag, and*  
 12 *render the military salute.”.*

13           (b) *CODIFICATION.—In codifying this subsection, the*  
 14 *Office of the Law Revision Counsel shall show in the histor-*  
 15 *ical and statutory notes that the 107th Congress reaffirmed*  
 16 *the exact language that has appeared in the Pledge for dec-*  
 17 *ades.*

18   **SEC. 3. REAFFIRMING THAT GOD REMAINS IN OUR MOTTO.**

19           (a) *REAFFIRMATION.—Section 302 of title 36, United*  
 20 *States Code, is amended to read as follows:*

21   **“§ 302. National motto**

22           *“‘In God we trust’ is the national motto.”.*

23           (b) *CODIFICATION.—In codifying this subsection, the*  
 24 *Office of the Law Revision Counsel shall make no change*  
 25 *in section 302, title 36, United States Code, but shall show*  
 26 *in the historical and statutory notes that the 107th Congress*

- 1 *reaffirmed the exact language that has appeared in the*
- 2 *Motto for decades.*



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107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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**AN ACT**

To reaffirm the reference to one Nation under God  
in the Pledge of Allegiance.

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SEPTEMBER 17, 2002

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